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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,487	08/19/2003	Peter H. Soderberg	281_382NP	5437

20874 7590 06/30/2005

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EXAMINER

ASTORINO, MICHAEL C

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/643,487	Applicant(s) SODERBERG ET AL.	
	Examiner Michael C Astorino	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,7,8,18,24,30-35,38-45,47-49,60-62,64-70,72-76,79-84,87 and 89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/2004</u> . | 6) <input checked="" type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: imaging device and identification device, vital sign sensors, movable cart. GUI, treatment-via an infusion pump, training, encryption, tracking inventory, fluid input and output ports.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1, 3, 7, 8, 18, 24, 30, 31, 32, 33, 34, 35, 45, 47, 48, 49, 61, 62, 65, 66, 67, 69, 73, 74, 75, 76, 79, 80, 82, 83, and 89 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Peter Bilinski on June 23, 2005 a provisional election was made without traverse to prosecute the invention of vital sign sensors, claims 38, 39, 40, 41, 42, 43, 44, 60, 64, 68, 70, 72, 81, 84, 87. Affirmation of this election must be made by applicant in replying to this Office action. Claims 2, 4-6, 9-17, 19-23, 25-29, 36-37, 46, 50-59, 63, 71, 77-78, 85-86, and 88 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Objections

Claim 81 is objected to because of the following informalities: claim 81 should be dependent on claim 42 not claim 41. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 66 and 75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 66 recites the limitation " said network interconnecting means " in line. There is insufficient antecedent basis for this limitation in the claim.

Claim 75 recites the limitation " said second input means " in line 1. There is insufficient antecedent basis for this limitation in the claim. In regards to claims 75, the examiner's prior art rejection will be based on the examiner's best guess on what the applicant intended to claim. See prior art rejections below. Additionally, depending on the applicant's amendment to the claim, the claim may be withdrawn from examination via election by original presentation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

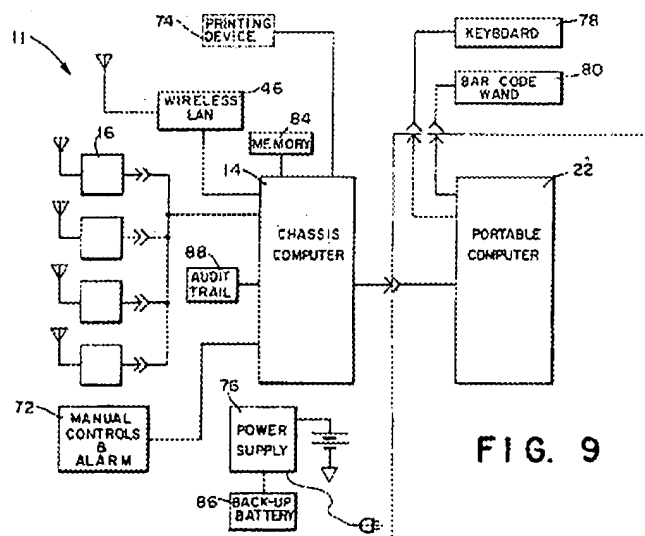
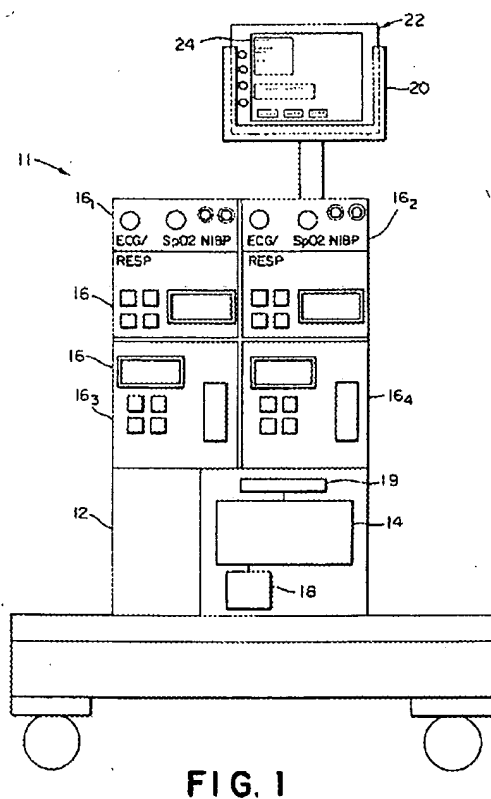
Claims 1, 3, 7, 8, 24, 30, 31, 33, 34, 35, 38, 40-42, 45, 47, 48, 49, 60, 62, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 76, 79, 80, 82, 83, and 89 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Number 5,687,717 A.

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In regards to claims 1 and 89. An integrated apparatus for use in a patient encounter, said apparatus comprising:

an input device (72, 78, 80) having means for reading machine readable information; and

a computing device (14, 22) connected to at least one medical instrument and said input device, wherein at least one medical instrument is integrated in said apparatus. See also figure 1, 3-4, 7, and 9.



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Claim 3. An integrated apparatus according to claim 1, including control means for controlling the operation of said at least one medical instrument, said input device, and said computing device. (inherent via processor)

In regards to claim 7, see element number 74.

In regards to claim 8 and 47-49, 75, 79-80, see element number 72, 78, or 80.

In regards to claim 24, 30, 31 see figures 3 and 4.

In regards to claim 33, see figure 7, "FIG. 7 shows a point of care chassis 12, a hard docked portable computer 22, an independent module 16.sub.1 in wireless serial communication with its parent chassis 12." See also figure 8 and 9.

Claim 34. An integrated apparatus according to claim 1, including a power supply. (76, or 86)

Claim 35. An integrated apparatus according to claim 34, wherein said power supply includes at least one rechargeable battery. (86)

In regards to claim 45, see element number 24 – a display.

In regards to claim 62, the display 24 may optionally be a touch screen to facilitate inputting of information by use of fingers or a light pen.

In regards to claim 65-67, 69, 73, 74, 82, and 83, see figure 4.

In regards to claim 38, 40-42, 60, 64, 68, 70, 72, The portable computer 22 includes appropriate hardware and software to receive alarm signals from the modules 16 when a module 16 detects an alarm condition. (An alarm condition occurs when patient data is outside of a predetermined range.) Furthermore, an example of modifying an operating parameter is changing the high and low alarm limit of a heart rate monitor. Moreover, the system can monitor

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any of the following body parameters: breathing rate, pulse rate, body temperature, blood pressure, urinary discharge, blood oxygen levels (oximeter), ECG waves, EKG waves, or EEG waves... maintaining blood sugar, providing insulin. See also fig. 6.

In regards to claim 76, at least portable computer 22 is removably attachable to the apparatus.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 8, 24, 30, 31, 32, 34, 38, 39, 40, 41, 45, 47, 48, 49, 60, 62, 65, 66, 67, 69, 70, 73, 74, 75, 76, 82, 84, and 89 are rejected under 35 U.S.C. 102(e) as being anticipated by Mault US Patent Number 6,478,736 B1,

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Claim 1. An integrated apparatus for use in a patient encounter, said apparatus comprising:

an input device having means for reading machine readable information (Mault discloses the use of a bar code scanner as an input device, col. 8, lines 8-16; additionally, Mault discloses the use of buttons and physiological sensors as input devices); and

a computing device (52) connected to at least one medical instrument and said input device.

(see figure 15, (10/50, 60, 74, 76, 72, and additionally discloses in col. 11, lines 2-5; Physiological parameters and monitors may include heart rate (for example using sensor 66), respiration rate, electrocardiograms (ECG, EKG), body temperature, and other parameters)

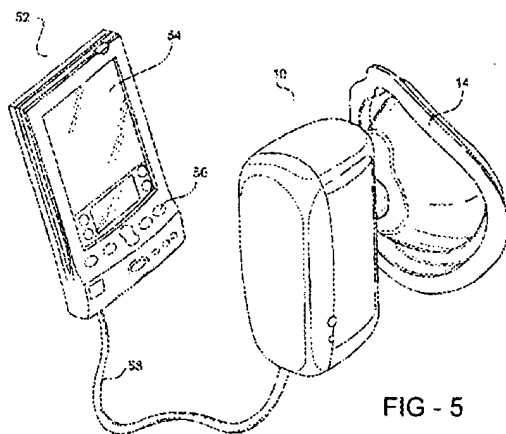


FIG - 5

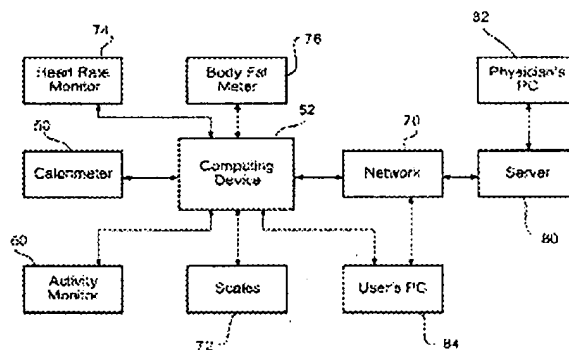


FIG - 15

Claim 3. An integrated apparatus according to claim 1, including control means for controlling the operation of said at least one medical instrument, said input device, and said computing device. (inherent via processor of the computing device,)

(col. 5, lines 65-67, col. 6, lines 1-20, A device for the measurement of metabolic rate (a metabolic rate meter) 50 provides metabolic rate data relating to the user at intervals to computing device 52. Preferably, an indirect calorimeter (such as that described in U.S. patent application Ser. No. 09/630,398) provides RMR measurements of the user to computing device 52. Device 52 has a display 54 and buttons 56. Buttons 56 may be used

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for data input (for example navigation through menus, character entry, and the like), changing the operating mode of the device (for example between computer and other functionality such as wireless phone), initiating a voice record, initiating an image capture, or other processes. Data entry may also be achieved using a stylus, touch-screen, roller-jog mechanism, touch-sensitive pad, monitoring eye-movements, voice recognition software, bar-code scanning, optical character recognition, or other convenient data entry mechanism. Preferably, computing device 52 is a personal digital assistant (PDA), but may be any electronic device such as a portable computer; electronic organizer; e-book; wireless phone; pager; wristwatch with added functionality; electronic system such as a system having separate display, entry, and computing modules; any portable/wearable device; a pedometer with added computing functionality; or a desktop computer system.

Claim 8. An integrated apparatus according to claim 3, wherein said control means includes user actuable controls for controlling the operation of the apparatus. (Buttons 56)

Claim 24. An integrated apparatus according to claim 1, further including at least one wireless transceiver and at least one antenna for transmitting data from said apparatus to a remote location.

Mault discloses the use of use of Bluetooth wireless protocol (see figure 5; column 6, lines 26-30). Bluetooth wireless protocol includes a transmitter for transmitting the set of data in a wireless manner to at least one local receiver. For clarification, the local receiver as described by Mault would be connected to the computing device (52). Since, Mault discloses the use of Bluetooth wireless protocol being used (column 6, lines 21-30) between the calorimeter (10) and the computing device (52). When two Bluetooth enabled devices (10, 52) come within range of each other (approximately 10 meters of each other) software embedded in the Bluetooth transceiver chips automatically initiate or "activate". When this activation occurs a connection between the calorimeter (10) and computing device (52) is established. When the connection is established the physiological data is transmitted and received.

Claim 30. An integrated apparatus according to claim 1, wherein said at least one medical instrument and said computing device are wirelessly linked. (see figure 5; column 6, lines 26-30)

Claim 31. An integrated apparatus according to claim 30, wherein said at least one medical instrument and said computing device are linked by means of a RF wireless protocol. (see figure 5; column 6, lines 26-30)

Claim 32. An integrated apparatus according to claim 31, wherein said RF wireless protocol is at least one of Bluetooth, 802.11 (a), 802.11 (b), 802.11 (g) and Zigbee. (see figure 5; column 6, lines 26-30)

Claim 34. An integrated apparatus according to claim 1, including a power supply. (it is inherent a suitable computing device of Mault, element number 52 has power supplies, col. 6, lines 13-20)

Claim 38. An integrated apparatus according to claim 1, wherein said at least one medical instrument is a medical vital signs monitor.

(see figure 15, (10/50, 60, 74, 76, 72, and additionally discloses in col. 11, lines 2-5; Physiological parameters and monitors may include heart rate (for example using sensor 66), respiration rate, electrocardiograms (ECG, EKG), body temperature, and other parameters)

Claim 39. An integrated apparatus according to claim 38, wherein said vital signs monitor is

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wirelessly connected to said computing device. (column 6, lines 26-30)

Claim 40. An integrated apparatus according to claim 1, wherein said at least one instrument is a portable EKG assembly.

(see figure 15, (10/50, 60, 74, 76, 72, and additionally discloses in col. 11, lines 2-5; Physiological parameters and monitors may include heart rate (for example using sensor 66), respiration rate, electrocardiograms (ECG, EKG), body temperature, and other parameters)

Claim 41. An integrated apparatus according to claim 40, wherein said portable EKG assembly is connected to said computing device. (see figure 15, (10/50, 60, 74, 76, 72, and additionally discloses in col. 11, lines 2-5; electrocardiograms (ECG, EKG)

Claim 45. An integrated apparatus according to claim 1, wherein said computing device includes a display. (fig. 5, 54)

Claim 47. An integrated apparatus according to claim 3, wherein said control means includes at least a second input device for inputting instructions to said apparatus. (col. 6, line 20, Mault discloses the use of a desktop computer system/ PC; see also figure 18)

Claim 48. An integrated apparatus according to claim 47, wherein said second input device includes at least one of a keyboard and a mouse connected to said computing device. (col. 6, line 20, Mault discloses the use of a desktop computer system/ PC; see also figure 18)

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Claim 49. An integrated apparatus according to claim 48, wherein said computing device includes data storage means and in which said second input device is a keyboard, said keyboard permitting manual entry of patient related data into said data storage means. (Fig, 18, keyboard 124; col. 13, lines 6-8, "The user, a customer of the fitness center, enters login information into the personal computer..." is synonymous with the claimed limitation.)

Claim 60. An integrated apparatus according to claim 45, wherein patient physiological parameter data from said at least one medical instrument can be displayed on the display of said computing device, said instrument being a diagnostic instrument. (see figures 6-12, and 15)

Claim 62. An integrated apparatus according to claim 45, wherein said display is a touch screen display. (col. 6, lines 1-20; "Data entry may also be achieved using a stylus, touch-screen, roller-jog mechanism, touch-sensitive pad...")

Claim 65. An integrated apparatus according to claim 1, including means for interconnecting said apparatus to a network. (figure 15)

Claim 66. An integrated apparatus according to claim 1, wherein said network interconnecting means includes at least one wireless connecting means for wirelessly connecting said apparatus to at least a portion of said network. (Bluetooth Protocol, column 6, lines 20-30)

Claim 67. An integrated apparatus according to claim 1, wherein at least one said medical

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instrument is integrated into said apparatus. (col. 9, lines 30-65, FIGS. 14A and 14B shows an activity sensor 60 carried in a holder 62 held on belt 64 around the user. The activity sensor may be in the form factor of a module which is plugged into the computing device 52, which gives the device 52 the functionality of a pedometer or other activity sensor.)

Claim 69. An integrated apparatus according to claim 1, including means for communicating with at least one medical device remote from said apparatus. See column 11, lines 24-35, "The computing device 52 may also be used to transmit weight control related data to the interactive television or other device connected to communications network 70 by any convenient means. The Bluetooth protocol may be used for all short range communications and data transfer described in this specification. IR beams, cables, optical methods, memory module transfer, electrical interfaces, and ultrasound may also be used. In embodiments in which the computing device 52 is a PDA or other hand-held device, it may also be used as a remote control to control entertainment devices."

Claim 70. An integrated apparatus according to claim 69, wherein said at least one medical device is a vital signs monitor. (computing device 52 and 10/50, 60, 74, 76, 72, and additionally discloses in col. 11, lines 2-5; Physiological parameters and monitors may include heart rate (for example using sensor 66), respiration rate, electrocardiograms (ECG, EKG), body temperature, and other parameters.)

Claim 73. An integrated apparatus according to claim 69, wherein said communication means

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comprises wireless communication means. (column 11, lines 24-35)

Claim 74. An integrated apparatus according to claim 73, wherein said wireless communication means includes means for bi-directional communication between said at least one medical device and said apparatus. (Bluetooth protocol is bi-directional communication.)

Claim 75. An integrated apparatus according to claim 1, wherein said second input means includes means for entering manual measurements related to a patient. (Although it is unclear what the “second input means refers to, Mault teaches in Fig. 18, a keyboard 124; col. 13, lines 6-8, “The user, a customer of the fitness center, enters login information into the personal computer...” which appears to reject the claim.)

Claim 76. An integrated apparatus according to claim 1, wherein said computing device is removably attached to said apparatus. (cable 58 makes the device removable)

Claim 82. An integrated apparatus according to claim 65, wherein said network can include a plurality of said integrated apparatuses. (figure 15)

Claim 84. An integrated apparatus according to claim 1, wherein said at least one medical diagnostic instrument includes a weight scale. (figure 15, scale 72)

Claim 89. An integrated apparatus for use in a patient encounter, said apparatus comprising:

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an input device having means for reading machine readable information (Mault discloses the use of a bar code scanner as an input device, col. 8, lines 8-16; additionally, Mault discloses the use of buttons and physiological sensors as input devices); and

a computing device (52) connected to at least one medical instrument and said input device, wherein at least one medical instrument is integrated in said apparatus.

(See figures 5, 14A and 14B, particularly use of pluggable memory module. Additionally, see figure 15, (10/50, 60, 74, 76, 72, and additionally discloses in col. 11, lines 2-5; Physiological parameters and monitors may include heart rate (for example using sensor 66), respiration rate, electrocardiograms (ECG, EKG), body temperature, and other parameters)

Claims 1, 7, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin et al. 2002/0087054 A1

Claim 1. An integrated apparatus for use in a patient encounter, said apparatus comprising: an input device (10, 33, 41, 44, 45, or 46) having means for reading machine readable information; and a computing device connected to at least one medical instrument (21) and said input device.

Claim 7. An integrated apparatus according to claim 1, including a printer connected to at least said computing device. (See claim 14)

Claim 18. An integrated apparatus according to claim 7, wherein said printer is wirelessly connected to said computing device. (See claim 14)

Claims 1, 42, 43, 44, 81, and 87 are rejected under 35 U.S.C. 102(e) as being anticipated by Hanna US Patent Number 6,450,966 B1.

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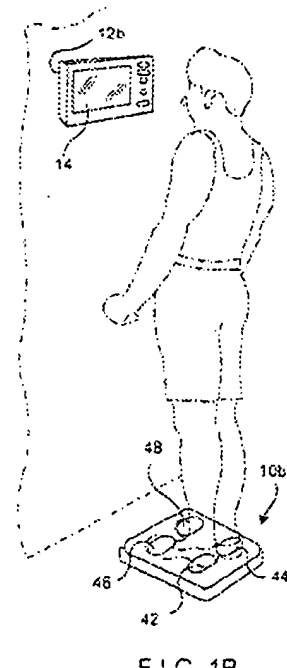
Claim 1. An integrated apparatus for use in a patient encounter, said apparatus comprising: an input device having means (152) for reading machine readable information; and a computing device (140) connected to at least one medical instrument (100) and said input device (152).

Claim 42, 43, 44 and 81. An integrated apparatus according to claim 42, wherein said automatically operated. sphygmomanometer includes an inflatable sleeve having a pressure control assembly for inflating and deflating said sleeve, said pressure control assembly being connected to said computing device so as to inflate the sleeve to a predetermined pressure depending on the patient whose blood pressure is being measured. (column 1, lines 45-54; column 3, lines 20-62; column 6, lines 3-26; column 10, lines 1-45). In regards to claim 44, the memory is synonymous with a database.

Claim 87. An integrated apparatus according to claim 43, including means for determining the size of said blood pressure sleeve prior to inflation thereof. (column 6, lines 3-7)

Claims 1 and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by Drinan et al. US Patent Number 6354996 B1.

Claim 1. An integrated apparatus for use in a patient encounter, said apparatus comprising:



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an input device having means for reading machine readable information; (figure 3) and
a computing device connected to at least one medical instrument and said input device
(figure 3).


Claim 61. An integrated apparatus according to claim 1, wherein said apparatus is wall
mounted. (fig 1B)

Conclusion

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Michael C Astorino whose telephone number is 571-272-4723.
The examiner can normally be reached on Monday-Friday, 8:30AM to 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the
organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Astorino
June 27, 2005

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 2,4-6,9-17,19-23,25-29,36,37,46,50-59,63,71,77,78,85,86 and 88.